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TITLE 17

PROFESSIONS, OCCUPATIONS, AND BUSINESSES

(CHAPTERS 29-79 IN VOLUME 17B; CHAPTERS 80-107 IN
VOLUME 17C)

SUBTITLE 2. NONMEDICAL PROFESSIONS

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SUBTITLE 2. NONMEDICAL PROFESSIONS

CHAPTER 12

ACCOUNTANTS

SUBCHAPTER

- 5. LICENSE RENEWAL.

SUBCHAPTER 5 — LICENSE RENEWAL

SECTION

- 17-12-504. Renewals and renewal fees.

17-12-504. Renewals and renewal fees.

(a)(1) Individual certified public accountants and public accountants shall pay an annual fee in an amount to be determined by Arkansas State Board of Public Accountancy rule.

(2) Unless otherwise provided by board rule, all licenses shall expire on December 31 of each year and may be renewed annually for a period of one (1) year by current licensees in good standing upon payment of the annual renewal fee.

(b)(1) A firm registered with the board shall pay an annual registration fee in an amount to be determined by board rule.

(2) Unless otherwise provided by board rule, all firm registrations shall expire on December 31 of each year and may be renewed annually for a period of one (1) year by registrants in good standing upon payment of the annual renewal fee.

(c) The board may establish a reduced renewal fee for any licensee who has attained a specified age and has met all other qualifications determined by the board.

(d)(1) A licensee may choose not to renew a license by notifying the board in writing prior to the expiration date of the license.

(2) The licensee shall surrender the license to the board immediately upon its expiration or otherwise comply with board rules concerning the disposition of the license.

(e) A licensee who complies with the requirements of subsection (d) of this section may apply to renew or reinstate his or her license or to receive a new license as provided in this section.

(f)(1) Beginning the first day of the first month after expiration, each licensee shall pay a monthly penalty for the late renewal of a license or registration in an amount determined by the board.

(2) If the license or registration is not renewed by the first day of the fourth month after expiration, the license or registration shall lapse.

(g)(1) Upon application received within three (3) years following the expiration of a license, the board may reinstate a lapsed license.

(2) A license may be reinstated if the applicant:

(A) Pays a reinstatement fee determined by the board; and

(B) Complies with continuing professional education and any other requirements applicable to:

(i) The renewal of the license at the date of its expiration; and

(ii) The reinstatement of the license at the date of the application for reinstatement.

(h)(1) Any license or registration that is not reinstated within three (3) years following expiration shall be void and shall not be subject to renewal or reinstatement.

(2) The holder of a void license or registration may apply for a new license or registration under § 17-12-301 et seq. or § 17-12-401 et seq.

(3) The board may require the applicant to comply with educational or other requirements deemed appropriate by the board, including successful completion of the examination identified in § 17-12-304 in order to obtain a new license.

(i)(1) Any license that has expired but has not been suspended or revoked by the board under § 17-12-601(a)(8) prior to August 12, 2005, shall be considered lapsed and may be reinstated under subsection (g) of this section upon application received by the board within one (1) year following August 12, 2005.

(2)(A) If not reinstated under this subsection, the expired license shall not be subject to renewal or reinstatement.

(B) The holder of the expired license may apply for a new license or registration under subsection (h) of this section.

(j) Any licensee who fails to timely renew his or her license to practice shall not perform attest services as defined in § 17-12-

103(a)(2) until he or she has obtained a license to practice under this subsection.

History. Acts 1975, No. 160, § 11; 1979, No. 432, § 5; A.S.A. 1947, § 71-621; Acts 1997, No. 242, § 17; 1999, No. 180, § 34; 2005, No. 54, § 14.

Publisher's Notes. This section is being set out to correct a reference in (h)(2).

CHAPTER 15

ARCHITECTS

SUBCHAPTER.

3. REGISTRATION AND LICENSING.

SUBCHAPTER 3 — REGISTRATION AND LICENSING

SECTION.

17-15-302. Exemptions.

SECTION.

17-15-312. Practice by architect not registered in Arkansas.

17-15-302. Exemptions.

(a) The following shall be exempt from the provisions of this chapter:

(1) A professional engineer, as defined in § 17-30-101, but only for work incidental to engineering practice if the professional engineer does not use the designation "architect" or any related term;

(2) Employees of those lawfully practicing architecture who are acting under the instruction, control, or supervision of their employer;

(3) Officers and employees of the government of the United States while engaged within this state in the practice of architecture for the government;

(4) Residents of this state who do not use the title "architect" or any term derived therefrom who act as designers for:

(A) Buildings that are to be constructed for personal use, such as residences, if the buildings are not intended or adaptable for public employment, assembly, or any other use under which they will be open to the public;

(B) Single family detached, duplex, triplex, and quadruplex dwellings; or

(C) Buildings whose total cumulative and fair market value to complete, not including site, does not exceed one hundred thousand dollars (\$100,000); and

(5) Owners and employees of planing mills, woodworking establishments, sash and door manufacturers, and jobbers in the designing, planning, detailing, and preparation of data on millwork, woodwork, and cabinetwork, provided they do not use the designation "architect" or any term derived therefrom.

(b)(1) The terms of this chapter shall not apply to:

(A) Any public school district exempted from the provisions of this chapter; or

(B) Every public school district embracing a city with a population in excess of thirty thousand (30,000) which maintains a full-time superintendent of buildings with engineering and architectural experience.

(2) This exception shall only apply:

(A) If the total cumulative and fair market value to complete the repair and maintenance of buildings already constructed and alterations thereof does not exceed the sum of one hundred thousand dollars (\$100,000); and

(B) If the total cumulative and fair market value to complete the new structures will not exceed the sum of one hundred thousand dollars (\$100,000).

(c) The provisions of this chapter shall not apply to any public school district, place of assembly, daycare, church, or building not more than one (1) story high where:

(1) The total cumulative and fair market value to complete the building, alteration, or structure does not exceed the sum of one hundred thousand dollars (\$100,000); and

(2) The plans are approved by the State Fire Marshal.

History. Acts 1941, No. 270, § 2; 1959, No. 157, § 1; 1971, No. 582, § 1; 1973, No. 417, § 1; 1975 (Extended Sess., 1976), No. 1204, § 1; 1981, No. 18, § 1; A.S.A. 1947, § 71-302; reen. Acts 1987, No. 1002, § 1; 1995, No. 860, § 2; 1995, No. 1108, §§ 1, 2; 1999, No. 1338, § 3; 2011, No. 897, § 12.

Amendments. The 2011 amendment substituted "A professional engineer, as defined in § 17-30-101" for "Professional engineers duly licensed or registered" in (a)(1).

17-15-312. Practice by architect not registered in Arkansas.

(a) This chapter does not prevent:

(1) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards from offering to render the professional services involved in the practice of architecture, if for every project the person is involved in, he or she notifies the Arkansas State Board of Architects, Landscape Architects, and Interior Designers in writing that he or she:

(A) Holds a National Council of Architectural Registration Boards certificate and is not currently registered in Arkansas but will be present in Arkansas for the purposes of offering to render architectural services for a single project;

(B) Will deliver a copy of the notice referred to in subdivision (a)(1)(A) of this section to every potential client to whom the applicant offers to render architectural services; and

(C) Promises to apply to the Arkansas State Board of Architects, Landscape Architects, and Interior Designers within thirty (30) days for registration if selected as the architect for the project;

(2) A person who holds the certification issued by the National Council of Architectural Registration Boards but who is not currently

registered in Arkansas from seeking an architectural commission by participating in a single architectural design competition for a project in Arkansas, if for every project the person is involved in, the person notifies the Arkansas State Board of Architects, Landscape Architects, and Interior Designers in writing that:

(A) The person holds a National Council of Architectural Registration Boards certificate and is not currently registered in the jurisdiction but will be present in Arkansas for the purpose of participating in an architectural design competition;

(B) The person will deliver a copy of the notice referred to in subdivision (a)(2)(A) of this section to every person conducting an architectural design competition in which the applicant participates; and

(C) The person promises to apply to the Arkansas State Board of Architects, Landscape Architects, and Interior Designers within thirty (30) days after being selected as the architect for the project; and

(3)(A) A person who is not currently registered in this state but who is currently registered in another jurisdiction from providing uncompensated professional services at the scene of an emergency at the request of a public officer, public safety officer, or municipal or county building inspector acting in an official capacity.

(B) "Emergency" means earthquake, eruption, flood, storm, hurricane, or other catastrophe that has been designated as a major disaster or emergency by the President of the United States or the Governor of Arkansas.

(b) An individual who possesses a professional degree in architecture and is enrolled in the Intern Development Program of the National Council of Architectural Registration Boards or under the jurisdiction of the Arkansas State Board of Architects, Landscape Architects, and Interior Designers may use the title "Architectural Intern" or "Intern Architect" to identify himself or herself.

History. Acts 1999, No. 1338, § 5; **Amendments.** The 2011 amendment 2009, No. 1367, § 10; 2011, No. 859, § 1. redesignated the section.

CHAPTER 16

ATHLETE AGENTS

SUBCHAPTER.

1. UNIFORM ATHLETE AGENTS ACT.

SUBCHAPTER 1 — UNIFORM ATHLETE AGENTS ACT

SECTION.

17-16-102. Definitions.

17-16-111. Notice to educational institution.

17-16-114. Prohibited conduct.

SECTION.

17-16-115. Criminal penalties.

17-16-117. Administrative penalty.

17-16-123. Revocation of registration.

Effective Dates. Acts 2011; No. 204, § 8: Mar. 8, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this bill reforms the athlete agent laws of Arkansas to protect student athletes from unscrupulous actions by athlete agents; that the issues sought to be addressed by this act are currently ongoing and present problems for student athletes and institutions of higher education; and that the reforms instituted by this act should become effective as soon as pos-

sible to address these issues. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

17-16-102. Definitions.

In this subchapter:

(1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract.

(2)(A) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract.

(B) "Athlete agent" includes without limitation an individual who:

- (i) Is authorized by a student-athlete to enter into an agreement;
- (ii) Works for or on behalf of an athlete agent; or
- (iii) Represents to the public that he or she is an athlete agent.

(C) "Athlete agent" does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team, professional sports organization, or educational institution, unless that individual offers, solicits for himself or herself, solicits on the student-athlete's behalf, or solicits on behalf of the student-athlete's family or friends any form of a financial benefit or gift not allowed by the regulations or bylaws of the National Collegiate Athletic Association as they existed on January 1, 2011.

(3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract.

(5) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of

publicity, reputation, following, or fame obtained because of athletic ability or performance.

(6) "Family" means any person related to a student-athlete by blood, marriage, or adoption.

(7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics.

(8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(9) "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11) "Registration" means registration as an athlete agent pursuant to this subchapter.

(12) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(13) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

History. Acts 2001, No. 1622, § 2; 2011, No. 204, § 2.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known and may be cited as the 'Athlete Agent

Reform Act of 2011'."

Amendments. The 2011 amendment rewrote (2); and inserted present (6) and redesignated the remaining subdivisions accordingly.

17-16-111. Notice to educational institution.

(a)(1) If a student-athlete is enrolled in an educational institution, an athlete agent shall provide notice to the athletic director of the educational institution at which the student-athlete is enrolled before contacting the student-athlete.

(2) If an athlete agent intentionally or unintentionally contacts a student-athlete enrolled in an educational institution, the athlete agent shall notify the athletic director of the educational institution at which the student-athlete is enrolled within seventy-two (72) hours of the contact.

(b) Within seventy-two (72) hours after entering into an agency contract or verbally agreeing to enter into an agency contract, or before

the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract or verbal agreement to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(c) Within seventy-two (72) hours after entering into an agency contract or verbally agreeing to enter into an agency contract, or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract or has verbally agreed to enter into an agency contract.

History. Acts 2001, No. 1622, § 9; 2011, No. 204, § 3.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known and may be cited as the 'Athlete Agent Reform Act of 2011'."

Amendments. The 2011 amendment

added present (a) and redesignated the remaining subsections accordingly; inserted "or verbally agreeing to enter into an agency contract" in (b) and (c); inserted "or verbal agreement" in (b); and added "or has verbally agreed to enter into an agency contract" at the end of (c).

17-16-114. Prohibited conduct.

(a) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

(1) give any materially false or misleading information or make a materially false promise or representation;

(2) furnish a good or service of value or arrange for a good or service of value to be furnished to a student-athlete before the student-athlete enters into the agency contract; or

(3) furnish a good or service of value or arrange for a good or service of value to be furnished to any individual other than the student-athlete or another registered athlete agent.

(b) An athlete agent may not intentionally:

(1) initiate contact with a student-athlete unless registered under this subchapter;

(2) refuse or fail to retain or permit inspection of the records required to be retained by § 17-16-113;

(3) fail to register when required by § 17-16-104;

(4) provide materially false or misleading information in an application for registration or renewal of registration;

(5) predate or postdate an agency contract; or

(6) fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

History. Acts 2001, No. 1622, § 12; 2011, No. 204, § 4.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: "This act shall be known

and may be cited as the ‘Athlete Agent Reform Act of 2011’.”

Amendments. The 2011 amendment, in (a)(2) and (a)(3), substituted “a good or

service” for “anything,” and inserted “or arrange for a good or service of value to be furnished.”

17-16-115. Criminal penalties.

(a) An athlete agent who violates § 17-16-114(a) is guilty of a Class D felony.

(b) An athlete agent who violates § 17-16-114(b)^{*} is guilty of a Class A misdemeanor.

History. Acts 2001, No. 1622, § 13; 2011, No. 204, § 5.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: “This act shall be known and may be cited as the ‘Athlete Agent

Reform Act of 2011’.”

Amendments. The 2011 amendment inserted present (a) and redesignated the existing language as (b); and substituted “§ 17-16-114(b)” for “§ 17-16-114” in (b).

17-16-117. Administrative penalty.

The Attorney General may seek a civil penalty in any court of competent jurisdiction against an athlete agent not to exceed two hundred fifty thousand dollars (\$250,000) for a violation of this subchapter.

History. Acts 2001, No. 1622, § 15; 2011, No. 204, § 6.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: “This act shall be known and may be cited as the ‘Athlete Agent

Reform Act of 2011’.”

Amendments. The 2011 amendment substituted “two hundred fifty thousand dollars (\$250,000)” for “fifty thousand dollars (\$50,000).”

17-16-123. Revocation of registration.

(a)(1) A court of competent jurisdiction may revoke a certificate of registration before, during, or after a proceeding seeking a criminal, civil, or administrative penalty under this subchapter.

(2) When revoking a certificate of registration, a court of competent jurisdiction may declare a person ineligible to reapply for a certificate of registration for a period of time not to exceed five (5) years.

(b) A court of competent jurisdiction may revoke registration under this section in lieu of or in addition to other criminal, civil, or administrative penalties under this subchapter.

History. Acts 2011, No. 204, § 7.

A.C.R.C. Notes. Acts 2011, No. 204, § 1, provided: “This act shall be known

and may be cited as the ‘Athlete Agent

Reform Act of 2011’.”

CHAPTER 17

AUCTIONEERS

SUBCHAPTER 3 — LICENSING

SECTION.

17-17-312. Criminal background checks.

17-17-312. Criminal background checks.

(a) Beginning July 16, 2003, each first-time applicant for a license issued by the Auctioneer's Licensing Board and each applicant seeking reinstatement of an expired license from the board shall be required to apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

(b) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the board and shall be responsible to the Department of Arkansas State Police for the payment of any fee associated with the criminal background check.

(d) Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward to the board all information obtained concerning the applicant in the commission of any offense listed in subsection (f) of this section.

(e) At the conclusion of any background check required by this section, the Identification Bureau of the Department of Arkansas State Police shall promptly destroy the fingerprint card of the applicant.

(f) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty of, any of the following offenses by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:

- (1) Capital murder, as prohibited in § 5-10-101;
- (2) Murder in the first degree and second degree, as prohibited in §§ 5-10-102 and 5-10-103;
- (3) Manslaughter, as prohibited in § 5-10-104;
- (4) Negligent homicide, as prohibited in § 5-10-105;
- (5) Kidnapping, as prohibited in § 5-11-102;
- (6) False imprisonment in the first degree, as prohibited in § 5-11-103;
- (7) Permanent detention or restraint, as prohibited in § 5-11-106;
- (8) Robbery, as prohibited in § 5-12-102;
- (9) Aggravated robbery, as prohibited in § 5-12-103;
- (10) Battery in the first degree, as prohibited in § 5-13-201;
- (11) Aggravated assault, as prohibited in § 5-13-204;
- (12) Introduction of a controlled substance into the body of another person, as prohibited in § 5-13-210;
- (13) Terroristic threatening in the first degree, as prohibited in § 5-13-301;
- (14) Rape, as prohibited in § 5-14-103;
- (15) Sexual indecency with a child, as prohibited in § 5-14-110;

- (16) Sexual assault in the first degree, second degree, third degree, and fourth degree, as prohibited in §§ 5-14-124 — 5-14-127;
 - (17) Incest, as prohibited in § 5-26-202;
 - (18) Offenses against the family, as prohibited in §§ 5-26-303 — 5-26-306;
 - (19) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201;
 - (20) Endangering the welfare of a minor in the first degree, as prohibited in § 5-27-203;
 - (21) Permitting the abuse of a child, as prohibited in § 5-27-221(a);
 - (22) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;
 - (23) Felony adult abuse, as prohibited in § 5-28-103;
 - (24) Theft of property, as prohibited in § 5-36-103;
 - (25) Theft by receiving, as prohibited in § 5-36-106;
 - (26) Arson, as prohibited in § 5-38-301;
 - (27) Burglary, as prohibited in § 5-39-201;
 - (28) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-510, as prohibited in the former § 5-64-401 and §§ 5-64-419 — 5-64-442;
 - (29) Promotion of prostitution in the first degree, as prohibited in § 5-70-104;
 - (30) Stalking, as prohibited in § 5-71-229; and
 - (31) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection.
- (g)(1) The provisions of subsection (f) of this section may be waived by the board upon the request of:
- (A) An affected applicant for licensure; or
 - (B) The person holding a license subject to revocation.
- (2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:
- (A) The age at which the crime was committed;
 - (B) The circumstances surrounding the crime;
 - (C) The length of time since the crime;
 - (D) Subsequent work history;
 - (E) Employment references; and
 - (F) Character references.
- (h)(1) Any information received by the board from the Identification Bureau of the Department of Arkansas State Police under this section shall not be available for examination except by the:
- (A) Affected applicant for licensure, or his or her authorized representative; or

(B) Person whose license is subject to revocation, or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or to the person whose license is subject to revocation shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(k) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.

History. Acts 2003, No. 834, § 1; 2011, No. 570, § 119.

A.C.R.C. Notes. Acts 2011, No. 570, § 1, provided: "Legislative intent. The intent of this act is to implement comprehensive measures designed to reduce re-

cidivism, hold offenders accountable, and contain correction costs."

Amendments. The 2011 amendment, in (f)(28), substituted "§ 5-64-510" for "§ 5-64-608" and inserted "the former" and "and §§ 5-64-419 — 5-64-442."

CHAPTER 19

BAIL BONDSMEN

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. LICENSING.
3. BOND REQUIREMENTS — POSTING OF BONDSEN LIST.
4. CONTINUING EDUCATION PROGRAM.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-19-110. Licensed bail bond agent.

17-19-112. Unpaid Bond Forfeiture Judgment Limits.

17-19-110. Licensed bail bond agent.

(a) A licensed bail bond agent shall be permitted to write a bail bond in any county if:

(1) The agent has a current license with a current licensed professional bail bond company; and

(2) The agent and the agent's company are in good standing with the courts in the jurisdiction where the bond is to be posted.

(b) A licensed bail bond agent shall carry a current copy of his or her professional bail bond agent license that shall indicate which professional bail bond company the bondsman works for and his or her qualifying power of attorney that is on file with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(c)(1) Only one (1) power of attorney per bond not exceeding the agent's qualifying power of attorney shall be permitted unless a court has separated the charges and amounts of bonds.

(2) Powers of attorney shall not be stacked.

History. Acts 1993, No. 402, § 1; 1999, No. 567, § 2; 2003, No. 1648, § 3; 2011, No. 94, § 1.

Amendments. The 2011 amendment deleted "with a current copy of his or her license" following "any county" in the introductory language of (a); and substi-

tuted "professional bail bond agent license that shall indicate which professional bail bond company the bondsman works for and his or her" for "company's license, his or her bail bond agent license, and a current copy of his or her" in (b).

17-19-112. Unpaid Bond Forfeiture Judgment Limits.

(a)(1) There shall be an initial one hundred thousand dollars (\$100,000) limit on active unpaid bond forfeiture judgments for each bail bonding company.

(2) Under this section, the amount of unpaid forfeiture or forfeitures shall be determined using the face value of an unpaid forfeited bond.

(b) When the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board is notified of a bond forfeiture judgment under § 17-19-208(b)(1) and has issued notice to the company after ninety (90) days from the date of judgment has elapsed, the value of the forfeited bond shall count against that company's respective limit.

(c) When a company's unpaid bond forfeiture or forfeitures reach one hundred thousand dollars (\$100,000) or the total amount of security deposit posted with the board, whichever is higher, the company license shall be suspended.

(d) The license shall remain suspended until:

(1) The company can post an additional certificate of deposit or letter of credit with the board so that the company's security deposit exceeds the unpaid bond forfeiture or forfeitures amount;

(2) The bond forfeiture judgment or judgments are paid to the extent that the total amount of unpaid forfeiture or forfeitures are less than the security deposit posted with the board; or

(3)(A) The court that entered the bond forfeiture judgment releases the company's security deposit from responsibility on the unpaid forfeiture as required by § 17-19-208(a)(1).

(B) If the court releases the company's security deposit from responsibility on an unpaid bond forfeiture judgment, the release must be decreed by court order.

(e) If the court releases the company's security deposit from liability on a bond forfeiture, that bond amount shall not count against the company's unpaid forfeiture limit.

(f) A company's unpaid bond forfeiture limit shall not exceed one hundred thousand dollars (\$100,000) unless the company has posted additional security with the board and shall never exceed the company's total amount of posted security deposit or one hundred thousand dollars (\$100,000), whichever is more.

History. Acts 2011, No. 96, § 1.

SUBCHAPTER 2 — LICENSING

SECTION.

17-19-206. Duties of board and clerks.

17-19-209. Violations — Hearings.

17-19-210. Suspension and penalties — Review.

SECTION.

17-19-211. [Repealed.]

17-19-206. Duties of board and clerks.

(a) Before issuance of a license under this chapter, applicants for a license shall satisfy the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board as to Arkansas residency, trustworthiness, and competence, as applicable, and shall otherwise comply with the conditions and qualifications set forth in this chapter.

(b)(1) The board may refuse to issue a license to an applicant who fails to comply with the provisions of this chapter or rule of the board.

(2) The board may refuse to issue a license to an applicant that has made a material misrepresentation in the application for a license.

(c) Upon the approval and issuance of a license under this chapter, the board shall give notice to the sheriff of each county in the state.

(d) Upon revocation or suspension of license, the board shall give notice to that effect to the sheriff in each county in the state.

(e) The board shall maintain a complete record of registrations, revocations, and suspensions, and the record shall be available to the sheriff and county clerk of each county of the state.

(f) Annually, the board shall furnish the sheriffs with a list of renewal licenses.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2007, No. 674, § 1; 2011, No. 95, § 1.

Amendments. The 2011 amendment deleted “or regulation” following “chapter

or rule” in (b)(1); in (c) and (d), deleted “written” preceding “notice” and “and circuit clerk” following “sheriff”; and deleted “and circuit clerks” following “the sheriffs” in (f).

17-19-209. Violations — Hearings.

(a) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall investigate any alleged violation of this chapter.

(b) Any person may file a complaint stating facts constituting an alleged violation of this chapter. The complaint shall be signed under penalty of perjury.

(c) All hearings held under this chapter shall be conducted in the same manner as hearings held by the board under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., unless otherwise stated in this chapter.

(d)(1)(A) With respect to the subject of any examination, investigation, or hearing being conducted by the board, the board or the

Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, with board approval, may subpoena witnesses and administer oaths and affirmations, and examine an individual under oath, and may require and compel the production of records, books, papers, contracts, and other documents.

(B) A professional bail bondsman or professional bail bond company that fails to comply with this section may be subject to penalties under § 17-19-210.

(2) Subpoenas of witnesses shall be served in the same manner as if issued by a circuit court and may be served by certified mail.

(3) If any individual fails to obey a subpoena issued and served pursuant to this section with respect to any matter concerning which he or she may be lawfully interrogated, upon application of the board, the Pulaski County Circuit Court may issue an order requiring the individual to comply with the subpoena and to testify.

(4) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(5) Any person willfully testifying falsely under oath to any matter material to any examination, investigation, or hearing shall upon conviction be guilty of perjury and punished accordingly.

(e) Not less than ten (10) days in advance, the board shall give notice of the time and place of the hearing, stating the matters to be considered at the hearing.

(f) The board shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his or her interest, and to have subpoenas issued by the board to compel attendance of witnesses and production of evidence in his or her behalf.

(g)(1) A party may appeal from any order of the board as a matter of right and shall be taken to the Pulaski County Circuit Court by filing written notice of appeal to the court and by filing a copy of the notice with the board.

(2) Within thirty (30) days after filing the copy of a notice of appeal with the board, the board shall make, certify, and deposit in the office of the clerk of the court in which the appeal is pending a full and complete transcript of all proceedings had before the board and all evidence before the board in the matter, including all of the board's files therein.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 1997, No. 973, § 6; 1999, No. 1477, § 1; 2003, No. 1174, § 1; 2011, No. 218, § 1.

redesignated former (d)(1) as present (d)(1)(A); inserted "or the Executive Director . . . with board approval" in (d)(1)(A); and added (d)(1)(B).

Amendments. The 2011 amendment

CASE NOTES

Counsel.

Bail bond agent did not receive disparate treatment because in the notice of

hearing sent to him by the Arkansas Professional Bail Bondsman Licensing Board, the agent was advised that he had the

right to be represented by counsel; the agent was given the same opportunity to be represented by counsel as were a bonding company and its owner. Hester v. Ark. Prof'l Bail Bondsman Licensing Bd., 2011 Ark. App. 389, — S.W.3d — (2011).

17-19-210. Suspension and penalties — Review.

(a) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, should it determine that the licensee or any member of a company which is so licensed committed an act listed in subsection (b) of this section, may:

- (1) Suspend the license for up to twelve (12) months;
- (2) Revoke or refuse to continue any license;
- (3) Impose an administrative penalty in an amount not to exceed ten thousand dollars (\$10,000); or
- (4) Impose both a suspension of up to twelve (12) months and an administrative penalty in an amount not to exceed ten thousand dollars (\$10,000).

(b) A licensee is subject to the penalties of subsection (a) of this section should it be found that the licensee:

- (1) Violated any provision of or any obligation imposed by this chapter or any lawful rule, regulation, or order of the board or has been convicted of a felony or any offense involving moral turpitude;
- (2) Made a material misstatement in the application for license, in the application for renewal license, or in the financial statement which accompanies the application or renewal application for license as a professional bail bond company;
- (3) Committed any fraudulent or dishonest acts or practices or demonstrated incompetency or untrustworthiness to act as a licensee;
- (4) Charged or received, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by law;
- (5) Required as a condition of executing a bail bond that the principal agrees to engage the services of a specified attorney;
- (6) Signed, executed, or issued bonds with endorsements in blank, or prepared or issued fraudulent or forged bonds or power of attorney;
- (7) Failed in the applicable regular course of business to account for and to pay premiums held by the licensee in a fiduciary capacity to the professional bail bond company or other person entitled thereto; or
- (8) Failed to comply with the provisions of the laws of this state, or rule, regulation, or order of the board for which issuance of the license could have been refused had it then existed and been known to the board.
- (c) The acts or conduct of a professional bail bondsman who acts within the scope of the authority delegated to him or her shall also be deemed the act or conduct of the professional bail bond company for which the professional bail bondsman is acting as agent.
- (d) If the board finds that one (1) or more grounds exist for the suspension or revocation of a license, the board may in its discretion request that formal charges be filed against the violator and that penalties set out in § 17-19-102 be imposed.

(e) If the board finds that one (1) or more grounds exist for the suspension or revocation of a license and that the license has been suspended within the previous twenty-four (24) months, then the board shall revoke the license.

(f) The board may not again issue a license under this chapter to any person or entity whose license has been revoked.

(g) If the board determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, a summary suspension of a license issued under this chapter may be ordered pending an administrative hearing before the board, which shall be promptly instituted.

(h) If a professional bail bond company license is so suspended or revoked, a member of the company or officer or director of the corporation shall not be licensed or be designated in any license to exercise the powers thereof during the period of the suspension or revocation, unless the board determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

(i) The action of the board in issuing or refusing to issue or in suspending or revoking any license shall be subject to review by the Pulaski County Circuit Court upon filing of an action therefor within thirty (30) days after the issuance of written notice by the board of the action taken.

History. Acts 1989, No. 417, § 1; 1995, No. 827, § 4; 2011, No. 97, § 1.

Amendments. The 2011 amendment inserted "and penalties" in the section heading; rewrote the introductory language of (a) and inserted (a)(1) through (a)(4); added the introductory language of

(b) and redesignated former (a)(1) through (a)(8) as (b)(1) through (b)(8); redesignated former (b) through (h) as (c) through (i); deleted "his or her" following "demonstrated" in (b)(3); and deleted "his or her" following "condition of" in (b)(5).

CASE NOTES

Revocation of License.

Circuit court did not err in affirming the revocation of a bail bond agent's license by the Arkansas Professional Bail Bondsman Licensing Board for violating §§ 17-19-101 et seq., because there was substantial evidence before the Board from which it could conclude that the agent had knowledge of and authorized a nonlicensed individual's actions; the agent instructed

the individual, who was hired by the owner of a bonding company to perform office work, to "catch" or apprehend someone in violation of § 16-84-114(b)(2), and the agent expressly testified that the individual acted pursuant to his direction. *Hester v. Ark. Prof'l Bail Bondsman Licensing Bd.*, 2011 Ark. App. 389, — S.W.3d — (2011).

17-19-211. [Repealed.]

Publisher's Notes. This section, concerning administrative penalty, was repealed by Acts 2011, No. 97, § 2. The

section was derived from Acts 1989, No. 417, § 1; 1995, No. 827, § 5; 1997, No. 973, § 7.

SUBCHAPTER 3 — BOND REQUIREMENTS — POSTING OF BONDSMEN LIST

SECTION.

17-19-304. [Repealed.]

17-19-301. Premiums.

A.C.R.C. Notes. Acts 2011, No. 1066, § 10, provided: "FEE GENERATION AND SUPPORT — BAIL BOND FEES. Unless specified otherwise in Arkansas Code §17-19-301(e) the monies collected by each bail bond company under the authority of §17-19-301(e) shall be deposited into the State Treasury to the credit of the Public Defender User Fees Fund within the State Central Services Fund.

"Of the fee collected by each licensed professional bail bond company, three dollars (\$3.00) shall be transferred to the various Counties for the sole purpose of defraying the operating expenses of the local public defenders' office. The remain-

ing monies collected shall be used to defray operating expenses of the Commission.

"On a quarterly basis, from the Bail Bond-County Public Defender line item, the Commission shall remit to each County its portion of the three dollars (\$3.00) per bail bond fee collected based upon the formula used for state aid for counties. This formula is as follows: 75% of the money is distributed equally to all 75 Counties and the remaining 25% is distributed per capita.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

17-19-304. [Repealed.]

Publisher's Notes. This section, concerning maximum amount of unsecured bond, was repealed by Acts 2011, No. 343,

§ 1. The section was derived from Acts 1989, No. 417, § 1; 1993, No. 1278, § 1; 1995, No. 827, § 7.

SUBCHAPTER 4 — CONTINUING EDUCATION PROGRAM

SECTION.

17-19-402. Establishment of program — Schedule of fees.

17-19-402. Establishment of program — Schedule of fees.

(a)(1) The Arkansas Professional Bail Association on an annual basis shall solicit proposals from education provider applicants that are approved by the State Board of Private Career Education as education providers, and the Arkansas Professional Bail Association will submit the approved providers to the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board for final approval.

(2) Upon review of the proposals, the association shall designate an entity or entities to establish an educational program for professional bail bondsmen that will enable bail bondsmen to meet the prelicense and continuing education requirements of § 17-19-212 and § 17-19-401 et seq.

(b)(1) The association or its designee shall establish a schedule of fees to be paid by each bail bondsman for the educational training.

(2) The schedule of fees submitted by the association shall be subject to approval of the board.

History. Acts 1993, No. 499, § 4; 1997, No. 909, § 1; 2009, No. 491, § 1; 2011, No. 36, § 1.

Amendments. The 2011 amendment subdivided (a) into (a)(1) and (a)(2); rewrote (a)(1); added "Upon review of the

proposals, the association" in (a)(2); substituted "association" for "board" in (b)(1); and substituted "submitted by the association shall be subject to approval of the board" for "shall be subject to approval of the board" in (b)(2).

CHAPTER 23

BUYERS OF PRECIOUS METALS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. LICENSING.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-23-101. Definitions.

17-23-102. Exemptions.

17-23-101. Definitions.

As used in this chapter:

(1)(A) "Dealer" means a person, corporation, partnership, or other entity that engages in the business of purchasing precious metals or precious items, or both, for the purpose of reselling the items in any form.

(B) "Dealer" does not include a person, corporation, partnership, or other entity engaged in a business that is exempted under § 17-23-102;

(2) "Permanent place of business" means a fixed premises either owned by the dealer or leased by the dealer for a period of at least one (1) year;

(3) "Person" means any individual, partnership, corporation, association, or other business entity;

(4) "Precious items" means precious or semiprecious stones or pearls whether mounted or unmounted;

(5) "Precious metals" means an article made, in whole or in part, of gold, silver, platinum, or a combination of gold, silver, or platinum;

(6) "Purchase" means the acquisition of a precious metal or a precious item, or both, for a consideration of cash, goods, or other precious metals or precious items; and

(7) "Silver" means sterling silver.

History. Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 2011, No. 1037, § 1.

Amendments. The 2011 amendment deleted "unless the context otherwise re-

quires" following "chapter" in the introductory paragraph; added (1) and (2); redesignated former (1) as (3); added (4) through (6); and redesignated former (2) as (7).

17-23-102. Exemptions.

The provisions of this chapter shall not apply to the following:

- (1) Transactions involving the sale or transfer of precious metals by a wholesale jeweler to a retail jeweler or licensed dealer;
- (2) Transactions involving coins regardless of whether or not such coins contain precious metals;
- (3) Any financial institution, which is covered by federal or state deposit insurance;
- (4) Any person doing business under the laws of this state or the United States relating to any broker-dealer, or commodity futures commission merchant, or commodity trading advisor or agent duly registered and regulated by the State Securities Department or the United States Commodity Futures Trading Commission; or
- (5) Pawn brokers.

History. Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 1991, No. 729, § 1; 2011, No. 1037, § 2.

Amendments. The 2011 amendment deleted former (1); redesignated former (2) as present (1); deleted former (3); re-

designated former (4) through (7) as present (2) through (5); and deleted “or any person doing business under the laws of this state” following “insurance” in present (3).

SUBCHAPTER 2 — LICENSING**SECTION.**

17-23-201. Registration required.

17-23-202. Registration.

17-23-203. Seller identification.

SECTION.

17-23-206. Records.

17-23-207. Holding periods.

17-23-201. Registration required.

A person shall not engage in the business of purchasing precious metals or precious items from the general public for the purpose of reselling the precious metals or precious items in any condition without first registering with the local law enforcement agency in the jurisdiction in which the business or the seller is located.

History. Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 1991, No. 729, § 2; 2011, No. 1037, § 3.

Amendments. The 2011 amendment

substituted “Registration” for “License” in the section heading; and rewrote the section.

17-23-202. Registration.

(a)(1) A dealer shall register with local law enforcement in writing and on the form prescribed by the local law enforcement agency at least twenty-four (24) hours prior to conducting business in that jurisdiction.

(2) The registration shall include:

(A)(i) The name of the registrant.

(ii) If the registrant is a partnership or association, the name of each member of the partnership or association.

(iii) If the registrant is a corporation, the name of each officer and director and of the principal owner or owners of the issued and outstanding capital stock in the corporation;

(B) The residence and business address for each person listed under subdivision (a)(2)(A) of this section;

(C) The city or town with the street and number where the business is to be conducted;

(D) A statement that the registrant has:

(i) A bona fide established place of business used primarily for the purchase of precious metals and precious items; and

(ii) A telephone number listed in the name of the business; and

(E) The name, address, and telephone number of the person designated to receive legal process in the event of the commencement of any legal action in any court against the registrant.

(b) A nonresident applicant shall provide the principal place of business without the state and such further information as the department may require for the administration of its duties under this chapter.

History. Acts 1981, No. 87, § 2; 1983, No. 374, § 1; A.S.A. 1947, § 71-5402; Acts 2011, No. 1037, § 4.

Amendments. The 2011 amendment rewrote the section.

17-23-203. Seller identification.

(a) A dealer required to register under this chapter shall require the following from each seller of precious metals or precious items:

(1) Proof of identification in the form of a valid driver's license, identification card, armed services identification card, or other valid photo identification;

(2) A signed statement stating that the seller is the legal owner of the property or is the agent of the owner authorized to sell the property, and when and where or in what manner the property was obtained; and

(3) A legible print of his or her right thumb as an identifying mark on the form.

(b)(1) A dealer shall not purchase precious metals or precious items from a person under eighteen (18) years of age unless the person is accompanied by a parent or guardian who provides identification that establishes that relationship.

(2) Both the person under eighteen (18) years of age and the parent or guardian shall submit the identification required under subdivision (a)(1) of this section, and records of the identification of both shall be maintained as provided under § 17-23-206.

History. Acts 1981, No. 87, § 3; 1983, No. 374, § 2; A.S.A. 1947, § 71-5403; Acts 2011, No. 1037, § 5.

Amendments. The 2011 amendment rewrote the section.

17-23-206. Records.

- (a) Every person registered under this chapter shall keep a record book containing a comprehensive record of all transactions concerning precious metals or precious items.
- (b) The record shall include:
- (1) The name, address, and telephone number of the seller;
 - (2) The date of birth of the seller;
 - (3) The signature of the seller;
 - (4) A description of the seller, including height, weight, race, complexion, and hair color;
 - (5) The driver's license, identification card, or other photo identification number provided under § 17-23-203(a)(1) and the jurisdiction of issuance; and
 - (6) A complete and accurate description of the property purchased, including any serial numbers or other identifying marks or symbols and the date and hour of the transaction.
- (c) All persons registered under this chapter shall at least weekly deliver or mail to the chief law enforcement officer of the city or town or the sheriff of the county in which the business is located a written or electronic copy of all entries in the record required to be kept by subsections (a) and (b) of this section during the preceding seven-day period.
- (d) All records and reports received by the chief law enforcement officer of the city or town or sheriff of the county shall be available for inspection only by law enforcement officers for law enforcement purposes.

History. Acts 1981, No. 87, §§ 4, 5; 1981, No. 541, §§ 2, 3; 1983, No. 374, § 3; A.S.A. 1947, §§ 71-5404, 71-5405; Acts 2011, No. 1037, § 6.

Amendments. The 2011 amendment, in (a), substituted "registered" for "licensed," deleted "obtained from or under

the direction of the Department of Arkansas State Police" following "record book," and substituted "or precious items" for "involving an amount in excess of fifty dollars (\$50.00); rewrote (b); and, in (c), substituted "registered" for "licensed" and inserted "written or electronic."

17-23-207. Holding periods.

- (a) All persons registered under this chapter shall retain possession of precious metals or precious items in an unaltered condition for fifteen (15) business days after delivering the list to the chief law enforcement officer of the city or town or sheriff of the county as required under § 17-23-206.
- (b) If the chief law enforcement officer of the city or town or sheriff of the county or the prosecuting attorney has probable cause to believe that precious metals or precious items have been stolen, he or she may give notice to the registrant to retain the precious metal or precious item for a specific period of time.

History. Acts 1981, No. 87, § 5; 1981, No. 541, § 3; A.S.A. 1947, § 71-5405; Acts 2011, No. 1037, § 7.

Amendments. The 2011 amendment rewrote the section.

CHAPTER 24

COLLECTION AGENCIES

SUBCHAPTER.

3. LICENSING.

SUBCHAPTER 3 — LICENSING

SECTION.

17-24-305. Fees — Disposition.

Effective Dates. Acts 2011, No. 764, § 9: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2011 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of

the legislative session, the delay in the effective date of this Act beyond July 1, 2011 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2011."

17-24-305. Fees — Disposition.

(a) The State Board of Collection Agencies may charge an annual license fee not to exceed one hundred twenty-five dollars (\$125) for licensing each collection agency and an annual fee of fifteen dollars (\$15.00) for registering each employee of the licensed collection agency who as an employee solicits, collects, or attempts to collect any delinquent account or accounts by telephone, mail, personal contact, or otherwise.

(b) All income from fees imposed under this section shall be distributed as follows:

(1)(A) Beginning July 1, 2006, and each July 1 thereafter, the first one hundred fifteen thousand dollars (\$115,000) in fees received by the board shall be remitted in one (1) payment by the board to the Treasurer of State for the Division of Medical Services of the Department of Human Services and deposited into a paying account as determined by the Chief Fiscal Officer of the State to be used in accordance with § 20-10-705.

(B) The funds remaining after the distribution in subdivision (b)(1)(A) of this section for the fiscal year ending June 30, 2007, and

funds each July 1 thereafter received by the board in an amount not to exceed six hundred thousand dollars (\$600,000) each fiscal year shall be remitted by the board to the University of Arkansas for Medical Sciences for deposit into a financial institution in accordance with the policies of the University of Arkansas. The funds shall be expended for the College of Pharmacy and the College of Nursing in accordance with § 6-64-417.

(C) The funds remaining after the distributions in subdivisions (b)(1)(A) and (B) of this section for the fiscal year ending June 30, 2007, and funds received by the board each July 1 thereafter in an amount not to exceed two hundred fifty thousand dollars (\$250,000) each fiscal year shall be remitted by the board to Arkansas State University — Mountain Home for deposit into the Arkansas State University — Mountain Home Fund. The funds shall be expended exclusively for the Arkansas State University — Mountain Home Practical Nurse Program.

(D) The funds remaining after the distributions in subdivisions (b)(1)(A)-(C) of this section for the fiscal year ending June 30, 2009, and funds received by the board each July 1 thereafter in an amount not to exceed one hundred thousand dollars (\$100,000) each fiscal year shall be remitted by the board to the University of Central Arkansas for deposit into the University of Central Arkansas Fund. The funds shall be expended exclusively for the University of Central Arkansas Department of Nursing.

(E)(i) The funds remaining after the distributions in subdivisions (b)(1)(A)-(D) of this section for the fiscal year ending June 30, 2010, and funds received by the board each July 1 thereafter in an amount not to exceed one hundred thousand dollars (\$100,000) each fiscal year shall be remitted by the board to Southern Arkansas University for deposit into the Southern Arkansas University Fund.

(ii) Funds shall be expended exclusively for personal services and operating expenses of the Southern Arkansas University System.

(F) The funds remaining after the distributions in subdivisions (b)(1)(A)-(E) of this section for the fiscal year ending June 30, 2011, and funds received by the board each July 1 thereafter in an amount not to exceed one hundred thousand dollars (\$100,000) each fiscal year shall be remitted by the board to Henderson State University for deposit into the Henderson State University Fund.

(G) Funds remaining after the distributions in subdivisions (b)(1)(A)-(F) of this section shall be deposited to the State Board of Collection Agencies account in some bank authorized to do business in this state.

History. Acts 1965, No. 145, § 7; 1979, No. 86, § 1; 1985, No. 830, § 1; A.S.A. 1947, § 71-2007; Acts 1999, No. 1500, § 1; 2005, No. 2268, § 7; 2007, No. 1217, § 7; 2009, No. 1413, § 4; 2009, No. 1455, § 8; 2010, No. 281, § 4; 2011, No. 764, § 5.

Amendments. The 2011 amendment inserted present (b)(1)(F) and redesignated the following subdivision accordingly.

CHAPTER 25

CONTRACTORS

SUBCHAPTER.

- 3. LICENSING.
- 5. RESIDENTIAL BUILDING CONTRACTORS COMMITTEE.

SUBCHAPTER 1 — GENERAL PROVISIONS

17-25-101. Definition.

CASE NOTES

Cited: Forever Green Ath. Fields, Inc.
v. Lasiter Constr., Inc., 2011 Ark. App.
347, — S.W.3d — (2011).

17-25-103. Penalties — Enforcement.

CASE NOTES

Applicability.

Arkansas Contractor's Licensing Law did not bar appellee's counterclaim against a supplier for breach of contract, as appellee had a valid contractor's license, and it was not attempting to do any

of the activities prohibited by subdivisions (a)(2) through (a)(5) of this section. *Forever Green Ath. Fields, Inc. v. Lasiter Constr., Inc.*, 2011 Ark. App. 347, — S.W.3d — (2011).

SUBCHAPTER 3 — LICENSING

SECTION.

17-25-304. Financial statement.

17-25-304. Financial statement.

(a) All persons and entities required by this chapter to be licensed by the Contractors Licensing Board shall transmit to the board with their original and renewal applications a financial statement of the applicant reviewed by a certified public accountant or registered public accountant according to American Institute of Certified Public Accountants' Professional Standards.

(b)(1) The financial statement shall not be made public information and shall not be made available for inspection by any person, except pursuant to an order of a court of competent jurisdiction.

- (2) After the contractor is licensed, the board has the option of:
- (A) Destroying the financial statement by the process of shredding; or
 - (B) Returning the financial statement to the contractor.

History. Acts 1981, No. 275, § 1; A.S.A. 1947, § 71-708.1; Acts 1997, No. 378, § 1; 2011, No. 4, § 1.

Amendments. The 2011 amendment

rewrote (a); subdivided (b); and deleted “so furnished” following “The financial statement” in (b)(1).

SUBCHAPTER 5 — RESIDENTIAL BUILDING CONTRACTORS COMMITTEE

SECTION.

17-25-501. Purpose.

17-25-502. Definitions.

17-25-503. Committee established — Members — Expenses — Administrative support.

17-25-504. Authority.

17-25-505. License from committee required.

17-25-506. Application for license.

17-25-507. Applicant qualifications.

17-25-508. Name of licensed contractor.

17-25-509. Written examination.

SECTION.

17-25-510. Hearings regarding violations.

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17-25-512. Expiration of license — Fees.

17-25-513. Exemptions.

17-25-514. Workers’ compensation required.

17-25-515. Actions to enforce contracts in violation of this subchapter.

17-25-501. Purpose.

It is the intent of this subchapter to protect homeowners and the purchasers of homes constructed in this state by establishing reasonable and adequate licensing and regulation of homebuilders and home improvement contractors. It is intended that this subchapter apply to everyone not specifically excluded. It is also the intent of this subchapter that the Residential Contractors Committee be located with the Contractors Licensing Board and that the staff and appropriation for the board be utilized to implement this subchapter.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 1.

Amendments. The 2011 amendment inserted “homeowners” and “and home

improvement contractors”; and substituted “Residential Contractors Committee” for “Residential Building Contractors Committee.”

17-25-502. Definitions.

For purposes of this subchapter:

(1) “Committee” means the Residential Contractors Committee created by this subchapter;

(2) “Home improvement contractor” means any person, firm, partnership, co-partnership, association, corporation, or other organization or any combination that attempts to or submits a bid or contracts, undertakes, or assumes charge in a supervisory capacity or otherwise manages the reconstruction, alteration, renovation, repair, modification, improvement, removal, demolition, or addition to any preexisting single family residence or the property and structures appurtenant thereto;

(3) “Residential building contractor” means any person, firm, partnership, copartnership, association, corporation, or other organization or any combination, which for a fixed price, commission, fee, or wage,

attempts to or submits a bid to construct or contract or undertakes to construct or assumes charge in a supervisory capacity or otherwise manages the construction of a single family residence or the property and structures appurtenant thereto; and

(4) "Single family residence" means any project consisting of one (1) but not more than four (4) units of new construction for residential occupancy.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 2.

Amendments. The 2011 amendment substituted "Residential Contractors Committee" for "Residential Building Contractors Committee" in (1); inserted present (2) and redesignated the remain-

ing subdivisions accordingly; substituted "residence or the property and structures appurtenant thereto" for "residences" in (3); and, at the end of (4), deleted "when the cost of the project is twenty thousand dollars (\$20,000) or more" and the last sentence.

17-25-503. Committee established — Members — Expenses — Administrative support.

(a)(1) There is created the Residential Contractors Committee, to consist of seven (7) members.

(2)(A)(i) The Governor shall appoint five (5) persons, each of whom has at least five (5) years' experience in residential construction.

(ii) Two (2) of the five (5) residential construction members shall be appointed from a list of at least ten (10) names submitted by the statewide trade organization or organizations that represent the residential construction industry.

(iii) Of the five (5) residential construction members, one (1) member shall be appointed from each of the four (4) congressional districts, and the remaining member shall be appointed from the state at large.

(B)(i) Two (2) members of the committee shall not be actively engaged in or retired from the profession of residential contracting.

(ii) One (1) shall represent consumers, and the other shall be at least sixty (60) years of age.

(iii) Both shall be appointed by the Governor from the state at large, subject to confirmation by the Senate.

(iv) These two (2) positions may not be held by the same person.

(v) Members appointed to these two (2) positions shall be full voting members but shall not participate in the grading of examinations.

(C) The members shall serve three-year terms. No member may serve more than three (3) three-year terms.

(3)(A) The committee shall elect a chair, vice chair, and secretary, each to serve in his or her respective capacity for one (1) year.

(B) Officers shall be elected by the committee annually.

(4) Three (3) voting members shall constitute a quorum.

(b) Committee members shall receive the same expense reimbursement and stipend as provided to the Contractors Licensing Board under

the procedures prescribed by § 25-16-901 et seq. Expenses and stipends shall be paid by the board.

(c) The Governor shall make appointments to fill vacancies in the same manner as appointments were made under subsection (a) of this section. Persons appointed to fill vacancies shall serve the unexpired term of office and shall possess the same qualifications as if they were being appointed to a full term on the committee.

(d) The board shall provide staff and administrative support for the committee.

History. Acts 1999, No. 950, § 1; 2003, No. 203, § 1; 2005, No. 1962, § 73; 2007, No. 84, § 1; 2011, No. 1208, § 3.

substituted “Residential Contractors Committee” for “Residential Building Contractors Committee” in (a)(1).

Amendments. The 2011 amendment

17-25-504. Authority.

The Residential Contractors Committee may:

- (1) Issue, modify, suspend, and revoke licenses issued by the committee;
- (2) Establish qualifications for licenses issued by the committee;
- (3) Enforce this subchapter and the committee’s rules;
- (4) Issue rules necessary for the implementation of this subchapter;
- (5) Levy civil penalties under this subchapter;
- (6) Issue orders of abatement in the same manner and to the same extent as authorized for the Contractors Licensing Board under § 17-25-103; and
- (7) Seek any other civil remedies which are available to the board.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 4.

Amendments. The 2011 amendment substituted “Residential Contractors Committee” for “Residential Building Contractors Committee” in the introductory language; substituted “licenses issued by the committee” for “residential building contractor’s licenses” in (2) and

(3); substituted “rules” for “regulations” in (3) and (4); substituted “under this subchapter” for “in the same amounts and under the same procedures as prescribed for the Contractors Licensing Board” in (5); and substituted “Contractors Licensing Board under § 17-25-103” for “board” in (6).

17-25-505. License from committee required.

(a) A person shall not act as a residential building contractor after July 1, 2001, unless licensed by the Residential Contractors Committee or exempted from licensure under this subchapter.

(b) A person shall not act as a home improvement contractor after January 1, 2012, unless:

- (1) Licensed by the committee; or
- (2) Exempt from licensure under this subchapter.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 5.

Amendments. The 2011 amendment substituted “Residential Contractors

Committee" for "Residential Building Contractors Committee" in present (a); and added (b).

17-25-506. Application for license.

(a) Applications for licensure shall be made on forms prescribed by the Residential Contractors Committee and shall have attached thereto:

(1)(A) Except as provided in subdivision (a)(1)(B) of this section, a compiled financial statement with each application for all persons and entities required by this subchapter to be licensed by the committee when the cost of the work done or to be done in the State of Arkansas by the contractor, including without limitation labor and materials, is twenty thousand dollars (\$20,000) or more.

(B) A person or entity required to be licensed under this subchapter when the cost of the work done or to be done in the State of Arkansas by the contractor, including without limitation labor and materials, is less than twenty thousand dollars (\$20,000) shall not be required to submit a financial statement; and

(2) Such other information as required by the committee.

(b)(1) The financial statement required with each application is not public information and may not be made available for inspection by any person, unless by an order of a court of competent jurisdiction.

(2) After the contractor is licensed, the Contractors Licensing Board shall destroy the financial statement by the process of shredding or returning the financial statement to the contractor.

History. Acts 1999, No. 950, § 1; 2003, No. 203, § 2; 2011, No. 1208, § 6.

Amendments. The 2011 amendment substituted "Residential Contractors

Committee" for "Residential Building Contractors Committee" in the introductory language of (a); rewrote present (a)(1)(A); and inserted (a)(1)(B).

17-25-507. Applicant qualifications.

(a) In determining the qualifications of any applicant for original license or any renewal license, the Residential Contractors Committee shall consider, among other things, the following:

(1) Experience;

(2) Ability;

(3) The manner of performance of previous contracts;

(4) Financial condition;

(5) Any other fact tending to show ability and willingness to conserve the public health and safety; and

(6) Default in complying with the provisions of this subchapter or any other law of the state.

(b) The committee may limit a license issued by the committee to the character of work for which the applicant is qualified to perform.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 7.

Amendments. The 2011 amendment substituted "Residential Contractors

Committee" for "Residential Building Contractors Committee" in the introductory language of (a); and added (b).

17-25-508. Name of licensed contractor.

Contractors licensed under this subchapter may act as such only in the name under which they are licensed by the Residential Contractors Committee.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 8.

Amendments. The 2011 amendment substituted "Contractors licensed under

this subchapter" for "Residential building contractors" and "Residential Contractors Committee" for "Residential Building Contractors Committee."

17-25-509. Written examination.

(a) Except as otherwise provided in this section, a person shall not be licensed as a residential building contractor unless the person has passed a written examination prescribed by the Residential Contractors Committee.

(b)(1) Until January 1, 2012, the committee shall waive the written examination for a person who:

(A) Submits proof of having obtained five (5) building permits within the three (3) years preceding the date of application;

(B) Submits proof of having obtained one (1) building permit within the preceding twelve (12) months; or

(C) Submits proof of experience in construction acceptable to the committee.

(2) Subsection (b)(1) of this section does not apply to applicants for a residential builder license.

History. Acts 1999, No. 950, § 1; 2003, No. 1103, § 1; 2011, No. 1208, § 9.

Amendments. The 2011 amendment substituted "Residential Contractors

Committee" for "Residential Contractors Building Committee" in (a); rewrote (b); and deleted (c).

17-25-510. Hearings regarding violations.

(a) The Residential Contractors Committee may conduct hearings regarding alleged violations of this subchapter or regulations promulgated thereunder, and the hearings shall be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq. The committee shall within a reasonable time make findings and determinations as a result of the hearings.

(b) A contractor who, after notice and hearing, is found to have committed the following actions shall pay to the Contractors Licensing Board a civil penalty of not less than one hundred dollars (\$100) nor more than four hundred dollars (\$400) for each day that the violation occurred:

(1) Acting as a contractor without having a valid license in violation of this chapter;

- (2) Using a contractor in violation of this chapter;
 - (3) Presenting or filing the license certificate of another;
 - (4) Giving false or forged evidence of any kind to the board in obtaining a certificate of license;
 - (5) Using an expired or revoked certificate of license;
 - (6) Giving false or fraudulent evidence of a contractor's license to another person or entity; or
 - (7) Committing other violations under this chapter.
- (c) The committee may revoke the certificate of license of any contractor licensed under this subchapter who is found guilty of:
- (1) Fraud or deceit in obtaining a license;
 - (2) Aiding or abetting a contractor or person to violate this chapter; or
 - (3) Gross negligence, incompetence, or misconduct in the contractor's business.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 10.

Committee" for "Residential Contractors Building Committee" in (a); and added (b) and (c).

Amendments. The 2011 amendment substituted "Residential Contractors

17-25-511. Appeal from committee decision.

Any person aggrieved by an action or decision of the Residential Contractors Committee may appeal to the Contractors Licensing Board within ten (10) calendar days after the action or decision under procedures prescribed by the board. Aggrieved parties shall be granted an opportunity to address the board regarding the committee's actions, and the final actions of the board shall be binding upon the committee.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 11.

substituted "Residential Contractors Committee" for "Residential Contractors Building Committee."

Amendments. The 2011 amendment

17-25-512. Expiration of license — Fees.

All licenses issued by the Contractors Licensing Board shall expire one (1) year after the date of issuance unless otherwise provided by the Residential Contractors Committee. The committee may charge reasonable examination fees and delinquency fees and may charge a fee not to exceed one hundred dollars (\$100) for new licenses or renewal of a license. All fees and other moneys collected by the committee shall be disposed of as provided by § 17-25-205 and shall be used by the board to implement this subchapter.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 12.

substituted "Residential Contractors Committee" for "Residential Contractors Building Committee."

Amendments. The 2011 amendment

17-25-513. Exemptions.

The following shall be exempted from the licensing requirements of this subchapter:

(1) A person who acts as a residential building contractor in the construction of his or her residence unless he or she builds more than one (1) residence during any calendar year;

(2) The owner of a single family residence acting as his or her own home improvement contractor on his or her own property;

(3)(A) A person or entity acting as a residential building contractor or a home improvement contractor on any project, when the cost of the work done or to be done does not exceed two thousand dollars (\$2,000).

(B) Subdivision (3)(A) of this section shall not apply to a project in which the construction work necessary to complete the project is divided into separate contracts of amounts less than two thousand dollars (\$2,000);

(4) A subcontractor of a contractor licensed by the Residential Contractors Committee; and

(5) A person or entity licensed as a contractor by another licensing agency, board, or commission of the State of Arkansas if the contractor is performing work within the scope of the license held by the person or entity.

History. Acts 1999, No. 950, § 1; 2011, No. 1208, § 13.

substituted "Exemptions." for "Exemption for personal homebuilder." in the section heading and rewrote the section.

Amendments. The 2011 amendment

17-25-514. Workers' compensation required.

(a) A contractor required to be licensed by the Residential Contractors Committee as a residential building contractor shall secure the payment of workers' compensation under § 11-9-401 et seq.

(b) The committee shall require proof of current workers' compensation coverage before issuing or renewing a license as a residential building contractor.

(c) Unless otherwise required by law, a home improvement contractor required to be licensed under this subchapter shall not be required to secure the payment of workers' compensation under § 11-9-401 et seq. or provide proof of coverage to the committee before issuing or receiving a license if the cost of the work done or to be done in the State of Arkansas by the home improvement contractor, including without limitation labor and materials, is less than twenty thousand dollars (\$20,000).

(d)(1) If a contractor fails to maintain workers' compensation coverage or fails to maintain proof of current workers' compensation coverage on file with the committee, the committee shall revoke the contractor's license.

(2) A contractor's license that has been revoked due to failure to maintain workers' compensation coverage may be reinstated upon

receipt of proof that the contractor has secured workers' compensation coverage.

(e) The committee shall promulgate rules necessary to enforce this section.

History. Acts 2005, No. 1711, § 1; 2007, No. 398, § 1; 2011, No. 1208, § 14.

Amendments. The 2011 amendment, in (a), substituted "A contractor" for "A residential building contractor" and "Residential Contractors Committee" for "Residential Contractors Building Committee";

inserted "as a residential building contractor" in (a) and (b); inserted present (c) and redesignated the remaining subsections accordingly; and inserted "or fails to maintain proof of current workers' compensation coverage on file with the committee" in present (d)(1).

17-25-515. Actions to enforce contracts in violation of this subchapter.

A contractor found guilty of a violation of this subchapter shall not bring an action:

- (1) In law or equity to enforce any provision of a contract entered into in violation of this subchapter; or
- (2) For quantum meruit.

History. Acts 2011, No. 1208, § 15.

CHAPTER 26

COSMETOLOGY AND RELATED OCCUPATIONS

SUBCHAPTER.

1. GENERAL PROVISIONS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

17-26-104. Unlawful practices.

17-26-104. Unlawful practices.

(a)(1) It is unlawful for any person, firm, or corporation to violate this chapter or a rule adopted by the Cosmetology Technical Advisory Committee pursuant to this chapter.

- (2) Evidence of a violation may result in a criminal or civil penalty.
- (3) Each day of a violation is a separate offense.

(b)(1) Being found guilty of a criminal penalty is a Class D misdemeanor and is punishable by a fine in any sum not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for a period of not more than ninety (90) days, or by both fine and imprisonment.

(2) After being found guilty of a Class D misdemeanor under this section, a subsequent charge under this section is a Class C misdemeanor.

(3) All prosecuting attorneys of the state and all political subdivisions of the state shall enforce this chapter and prosecute any person or entity violating it.

(c)(1) Being found in violation of a civil penalty under this section may result in suspension of license, revocation of license, fine, or any combination.

(2) For good cause shown and pursuant to rules of the committee, the committee may revoke, suspend, or refuse to renew at any time any license issued under this chapter on any of the grounds for disciplinary actions under § 17-26-105.

(3)(A) The committee shall suspend the license of any person licensed under this chapter who has been adjudged by a court of competent jurisdiction to be insane or legally incompetent.

(B) The record of the adjudication shall be *prima facie* evidence that the person is insane or legally incompetent within the meaning of subdivision (c)(3)(A) of this section.

(C) The committee shall not reinstate a license that has been suspended under subdivision (c)(3)(A) of this section, except upon proof that the licensee has been restored to a mental condition that would allow the licensee to comply with the requirements of this chapter.

(4)(A) Whenever the committee finds that a licensee or a holder of a permit issued by the committee is guilty of a violation of the rules of the committee or the laws of this state pertaining to any occupation, profession, or business licensed or regulated by the committee, the committee may impose a penalty on the licensee or permit holder in lieu of suspension or revocation of the license or permit.

(B) Upon imposition of a penalty in lieu of suspension or revocation of a license or permit, the committee may require that the licensee or permit holder pay a penalty to the committee for the violation with the condition that the license or permit may be suspended until the penalty is paid.

(C)(i) Prior to the imposition of a penalty, the committee shall hold an investigation and hearing after notice to the licensee or his or her attorney.

(ii) The penalty may be imposed in lieu of revocation or suspension of a license or permit only if the committee finds that the public health, safety, welfare, and morals would not be impaired and that the penalty achieves the desired disciplinary result.

(5)(A) The committee shall establish by rule the penalty system to be imposed under this section.

(B) The minimum penalty shall be twenty-five dollars (\$25.00), and a maximum penalty of one thousand dollars (\$1,000) is authorized if the penalty is imposed by the committee in lieu of revocation or suspension of a license or permit.

(C) The committee shall establish by rule an option that mandates a person to attend a health and safety training course in lieu of or in addition to paying a penalty.

(6) The power of the committee to impose penalties shall not be affected by any other civil or criminal proceeding concerning the violation.

(d) The committee may refuse to issue a license to any person upon reasonable evidence that the person would jeopardize the health and safety of the public.

(e) Any person penalized by the committee under this chapter may appeal any order of the committee in the manner provided by law.

(f) The committee may impose a civil penalty as provided in this section against any unlicensed person, firm, or corporation practicing or offering to practice any act that requires licensure under this chapter.

History. Acts 1955, No. 358, Art. 13; A.S.A. 1947, § 71-881; Acts 1993, No. 1056, § 7; 2007, No. 223, § 3; 2011, No. 859, § 2.

Amendments. The 2011 amendment substituted “an unclassified misdemeanor” for “a Class D misdemeanor” in (b)(1) and (b)(2).

CHAPTER 27

COUNSELORS

SUBCHAPTER.

3. LICENSING.

SUBCHAPTER 3 — LICENSING

SECTION.

17-27-313. Criminal background checks.

17-27-313. Criminal background checks.

(a) The Arkansas Board of Examiners in Counseling may require each applicant for license renewal and each first-time applicant for a license issued by the board to apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check, to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

(b) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant shall sign a release of information to the board and shall be responsible for the payment of any fee associated with the criminal background check.

(d) Upon completion of the criminal background check, the Identification Bureau of the Department of Arkansas State Police shall forward to the board all releasable information obtained concerning the applicant.

(e) No person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to or been found guilty of any of the following offenses by any court in the State of

Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree and second degree as prohibited in §§ 5-10-102 and 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Negligent homicide as prohibited in § 5-10-105;
- (5) Kidnapping as prohibited in § 5-11-102;
- (6) False imprisonment in the first degree as prohibited in § 5-11-103;
- (7) Permanent detention or restraint as prohibited in § 5-11-106;
- (8) Robbery as prohibited in § 5-12-102;
- (9) Aggravated robbery as prohibited in § 5-12-103;
- (10) Battery in the first degree as prohibited in § 5-13-201;
- (11) Aggravated assault as prohibited in § 5-13-204;
- (12) Introduction of controlled substance into body of another person as prohibited in § 5-13-210;
- (13) Terroristic threatening in the first degree as prohibited in § 5-13-301;
- (14) Rape as prohibited in § 5-14-103;
- (15) Sexual indecency with a child as prohibited in § 5-14-110;
- (16) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 — 5-14-127;
- (17) Incest as prohibited in § 5-26-202;
- (18) Offenses against the family as prohibited in §§ 5-26-303 — 5-26-306;
- (19) Endangering the welfare of an incompetent person in the first degree as prohibited in § 5-27-201;
- (20) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-203;
- (21) Permitting abuse of a minor as prohibited in § 5-27-221(a);
- (22) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303 — 5-27-305, 5-27-402, and 5-27-403;
- (23) Felony adult abuse as prohibited in § 5-28-103;
- (24) Theft of property as prohibited in § 5-36-103;
- (25) Theft by receiving as prohibited in § 5-36-106;
- (26) Arson as prohibited in § 5-38-301;
- (27) Burglary as prohibited in § 5-39-201;
- (28) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 — 5-64-510, as prohibited in the former § 5-64-401 and §§ 5-64-419 — 5-64-442;
- (29) Promotion of prostitution in the first degree as prohibited in § 5-70-104;

- (30) Stalking as prohibited in § 5-71-229;
- (31) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;
- (32) Computer child pornography as prohibited in § 5-27-603; and
- (33) Computer exploitation of a child in the first degree as prohibited in § 5-27-605.

(f)(1) The board may issue a six-month nonrenewable letter of provisional eligibility for licensure to a first-time applicant pending the results of the criminal background check.

(2) Upon receipt of information from the Identification Bureau of the Department of Arkansas State Police that the person holding such a letter of provisional licensure has pleaded guilty or nolo contendere to or been found guilty of any offense listed in subsection (e) of this section, the board shall immediately revoke the provisional license.

(g)(1) The provisions of subsections (e) and (f) of this section may be waived by the board upon the request of:

- (A) An affected applicant for licensure; or
- (B) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

- (A) The age at which the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat to the health or safety of children.

(h)(1) Any information received by the board from the Identification Bureau of the Department of Arkansas State Police pursuant to this section shall not be available for examination except by:

(A) The affected applicant for licensure, or his or her authorized representative; or

(B) The person whose license is subject to revocation, or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Department of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

(k) The board shall adopt the necessary rules and regulations to fully implement the provisions of this section.

History. Acts 1997, No. 1317, § 5; 2003, No. 1087, § 14; 2003, No. 1388, § 1; 2005, No. 2277, § 1; 2011, No. 570, § 120.

A.C.R.C. Notes. Acts 2011, No. 570, § 1, provided: "Legislative intent. The intent of this act is to implement comprehensive measures designed to reduce re-

cidivism, hold offenders accountable, and contain correction costs."

Amendments. The 2011 amendment, in (e)(28), substituted "5-64-510" for "5-64-608" and inserted "the former" and "and §§ 5-64-419 — 5-64-442."

CHAPTER 28

ELECTRICIANS

SUBCHAPTER.

2. BOARD OF ELECTRICAL EXAMINERS OF THE STATE OF ARKANSAS.

SUBCHAPTER 2 — BOARD OF ELECTRICAL EXAMINERS OF THE STATE OF ARKANSAS

SECTION.

17-28-201. Creation — Members.

17-28-201. Creation — Members.

(a) There is created a Board of Electrical Examiners of the State of Arkansas.

(b) The board shall consist of the Director of the Department of Labor or his or her authorized representative and eight (8) other members who shall be residents of this state appointed by the Governor with the advice and consent of the Senate:

(1) One (1) member shall be the chief electrical inspector of a municipality within the state;

(2) One (1) member shall be a licensed professional engineer as defined in § 17-30-101 engaged primarily in the design or maintenance of electrical installations;

(3) One (1) member shall be an electrical contractor operating in this state;

(4) One (1) member shall be a master or supervising electrician;

(5) One (1) member shall be a representative of a public electric utility operating in this state;

(6) One (1) member shall be a representative of a private electric utility operating in this state;

(7) One (1) member shall represent the public and shall not be affiliated with any of the other groups represented on the board; and

(8) One (1) member shall represent the elderly, shall be sixty (60) years of age or older, and not actively engaged as or retired as an electrician. This member shall be appointed from the state at large, subject to confirmation by the Senate, and shall be a full voting member but shall not participate in the grading of examinations.

(c) The same person may not be both the public representative and the representative of the elderly.

(d) Each appointment shall be for a term of four (4) years or until a successor is appointed.

(e) In the event of a vacancy during a term, the Governor may appoint a replacement to fulfill the unexpired portion of the term.

(f) The board shall elect one (1) of its members to act as its chair for a term of one (1) year, and he or she shall have a vote on all matters before the board.

(g) For cause and after a hearing, any appointed member may be removed from office by the Governor.

(h) Each appointed member may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1979, No. 870, § 2; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; A.S.A. 1947, §§ 6-623 — 6-626, 71-5302; Acts 1997, No. 250, § 135; 2011, No. 897, § 13.

Amendments. The 2011 amendment inserted “as defined in § 17-30-101” in (b)(2).

